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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,543	10/24/2000	Alan T. Slater	3184/15US	3493
31013	7590	05/05/2005	EXAMINER	
KRAMER LEVIN NAFTALIS & FRANKEL LLP INTELLECTUAL PROPERTY DEPARTMENT 1177 AVENUE OF THE AMERICAS NEW YORK, NY 10036			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/695,543	SLATER, ALAN T.	
	Examiner Pierre E. Elisca	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 February 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3,4 and 7-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 3,4, and 7- 8 is/are allowed.
- 6) Claim(s) 9-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |



DETAILED ACTION

1. This Office action is in response to Applicant's amendment, filed on 02/09/2005.
2. Claims 1-2, 5-6 are cancelled and claims 3-4, 7-12 are pending.

ALLOWABLE SUBJECT MATTER

3. Claims 3-4, and 7-8 are allowed over the prior art of record.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Rejection under 35 U.S.C. 102 (e), Patent Application Publication or Patent to Another with Earlier Filing Date, in view of the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 20902.

(e) the invention was described in (1) an application for patent, published under section 122 (b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.

5. Claims 9-12 are rejected under 35 U.S.C. 102 (e) as being anticipated by Nichols et al. (U.S. Pat. No. 6,354,491).

As per claims 9-12 Nichols discloses a check writing point of sale system that designed to accept payer account number input with a subsequent debiting of a payer account and crediting merchant's account for the goods or services, comprising:

storing in a database information concerning checking accounts including information concerning checking accounts that are not in good standing and checking accounts that are in good standing (see., col 7, lines 35-59, specifically wherein it is stated that the system is comprised of three separate but interactive databases. A merchant database checkwriter database stores records of all service subscribers authorized to initiate electronic checking requests, and col 1, lines 23-54);

receiving checking account information associated with the tendered check (see., col 3, lines 7-16, specifically wherein it is stated that point of sale purchases of goods and services paid from consumer funds secured in bank checking or depository accounts, and also col 8, lines 61-67);

calculating a number of days measured from receiving said checking account information associated with said tendered check in which said tendered check would be returned when unpaid; comparing said checking account information associated with said tendered check against said checking accounts that are not in good standing and said checking accounts that are in good standing; including said checking account information associated with said tendered check in said checking accounts that are in good standing when said tendered check is not returned as unpaid within said calculated number of days; and including said checking account information associated with said tendered check in said checking accounts that are not in good standing when

said tendered check is returned as unpaid (see., col 9, lines 25-44, specifically wherein said approval process or disapproved or when verifying social security or comparing social security and bank account, col 14, lines 42-67, please note that comprehensive database or first table of checking accounts, col 9, lines 25-44, specifically wherein said when approved transaction events are transmitted to the consumer's financial institution, and the step of good standing see., col 14, lines 13-41, col 9, lines 25-44, and the step of good standing see., col 14, lines 13-41, and col 14, lines 42-67, specifically wherein it is stated that a match is found and where the checkwriter's status field within the database is listed in good standing, please note that good standing or check is verified, and also col 2, lines 52-57).

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 02/09/2005 have been fully considered but they are not persuasive. Necessitated by Applicant's newly added claims 9-12.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent Examiner

May 03, 2005